

## **CHAPTER 8**

### **SAFE USE OF REMOTE SERVICE TERMINALS**

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#### **7-8-1. Definitions.**

As used in this chapter, the term:

(1) "Access area" means any paved walkway or sidewalk which is within 50 feet of any remote service terminal. The term does not include any street or highway open to the use of the public or any adjacent sidewalk.

(2) "Access device" shall have the same meaning as set forth in Federal Reserve Board Regulation E, 12 C.F.R. Part 205, promulgated pursuant to the federal Electronic Fund Transfer Act, 15 U.S.C. Section 1601, et seq.

(3) "Candlefoot power" means the light intensity of candles on a horizontal plane at 36 inches above ground level and five feet in front of the area to be measured.

(4) "Control" of an access area or defined parking area means to have the present authority to determine how, when, and by whom such access area or defined parking area is to be used, maintained, lighted, and landscaped.

(5) "Customer" means a natural person to whom an access device has been issued for personal, family, or household use.

(6) "Defined parking area" means that portion of any parking area open for customer parking which is:

(A) Contiguous to an access area with respect to a remote service terminal;

(B) Regularly, principally, and lawfully used for parking by users of the remote service terminal while conducting remote service terminal transactions during the hours of darkness; and

(C) Owned or leased by the operator of the remote service terminal or owned or controlled by the party leasing the remote service terminal site to the operator.

The term does not include any parking area which is not open or regularly used for parking by users of the remote service terminal who are conducting remote service terminal transactions during the hours of darkness. A parking area is not open if it is physically closed to access or if conspicuous signs indicate that it is closed. If a multiple-level parking area satisfies the conditions of this paragraph and would therefore otherwise be a defined parking area, only the single parking level deemed by the operator of the remote service terminal to be the most directly accessible to the users of the remote service terminal shall be a defined parking area.

(7) "Financial institution" means such an institution as defined in Code [Section 7-1-4](#).

(8) "Hours of darkness" means the period that commences 30 minutes after sunset and ends 30 minutes before sunrise.

(9) "Operator" means any bank, savings association, credit union, savings bank, or other business entity or any person who operates a remote service terminal, but does not include any person or entity whose primary function is to provide for the exchange, transfer, or dissemination of electronic fund transfer data.

(10) "Owner of an automated teller machine" means the person having the right to determine the financial institutions which will be permitted to use, or participate in the usage of, the automated teller machine but does not include any person or entity whose primary function is to provide for the exchange, transfer, or dissemination of electronic fund transfer data.

(11) "Public road" means any public right of way, including, but not limited to, structures, sidewalks, facilities, and appurtenances incidental thereto.

(12) "Remote service terminal" means any electronic information processing device which accepts or dispenses cash in connection with a credit, deposit, or convenience account. The term does not include devices used solely to facilitate check guarantees or check authorizations or which are used in connection with the acceptance or dispensing of cash on a person-to-person basis, such as by store cashier.

(Code 1981, 7-8-1, enacted by Ga. L. 1993, p. 917, 12; Ga. L. 1994, p. 97, 7.)

#### **7-8-2. Procedures for evaluating safety of remote service terminals.**

(a) On or before July 1, 1994, with respect to all existing installed remote service terminals in this state, and any remote service terminals installed after July 1, 1993, the operator shall adopt procedures for evaluating the safety of the remote service terminals. These procedures shall include a consideration of the following:

(1) The extent to which the lighting for the remote service terminal complies or will comply with applicable standards;

(2) The presence of landscaping, vegetation, or other obstructions in the area of the remote service terminal, the access area, and the defined parking area; and

(3) The incidence of crimes of violence in the immediate neighborhood of the remote service terminal as reflected in the records of the local law enforcement agency and of which the operator has actual knowledge.

(b) It is not the intent of the General Assembly in enacting this chapter to impose a duty to relocate or modify remote service terminals upon the occurrence of any particular events or circumstances, but rather to establish a standard of good faith for the evaluation of all remote service terminals as provided in this chapter. A violation of the provisions of this chapter or any regulation made pursuant thereto will not constitute negligence per se.

(Code 1981, 7-8-2, enacted by Ga. L. 1993, p. 917, 12.)

### **7-8-3. Date of compliance; provision of adequate lighting.**

(a) Each operator of a remote service terminal installed on or after July 1, 1993, shall comply with the provisions of this chapter commencing on the date the remote service terminal is installed. Compliance with the provisions of this chapter by operators as to remote service terminals existing as of July 1, 1993, shall be optional until July 1, 1994, and mandatory thereafter. This Code section shall apply to an operator of a remote service terminal only to the extent that the operator controls the access area or defined parking area to be lighted.

(b) If an access area or defined parking area is not controlled by the operator of the remote service terminal, and if the person who leased the remote service terminal site to the operator controls the access area or defined parking area, the person who controls the access area or defined parking area shall comply with the provisions of this chapter as to any remote service terminals installed on or after July 1, 1994, commencing on the date the remote service terminal is installed and as to any remote service terminal existing as of July 1, 1993, commencing no later than on July 1, 1994.

(c) The operator, owner, or other person responsible for the remote service terminal shall provide lighting during the hours of darkness with respect to an open and operating remote service terminal and any defined parking area, access area, and the exterior of an enclosed remote service terminal installation according to the following standards:

(1) There shall be a minimum of ten candlefoot power at the face of the remote service terminal and extending in an unobstructed direction outward five feet;

(2) There shall be a minimum of two candlefoot power within 50 feet from all unobstructed directions from the face of the remote service terminal. In the event the remote service terminal is located within ten feet of the corner of the building and the remote service terminal is generally accessible from the adjacent side, there shall be a minimum of two candlefoot power along the first 40 unobstructed feet of the adjacent side of the building; and

(3) There shall be a minimum of two candlefoot power in that portion of the defined parking area within 60 feet of the remote service terminal.

(Code 1981, 7-8-3, enacted by Ga. L. 1993, p. 917, 12.)

#### **7-8-4. Notices to customers of basic safety precautions.**

Customers receiving access devices shall be furnished by the respective issuers thereof with notices of basic safety precautions which customers should employ while using a remote service terminal. This information shall be furnished by personally delivering or mailing the information to each customer whose mailing address as to the account to which the access device relates is in this state. This information shall be furnished with respect to access devices issued on or after July 1, 1994, at or before the time the customer is furnished with his or her access device. With respect to a customer to whom an access device has been issued prior to July 1, 1993, the information shall be delivered on or before July 1, 1994. Only one notice need be furnished per household, and if access devices are furnished to more than one customer for a single account or set of accounts or on the basis of a single application or other request for access devices, only a single notice need be furnished in satisfaction of the notification responsibilities as to those customers. The information may be included with other disclosures related to the access device furnished to the customer, such as with any initial or periodic disclosure statement furnished pursuant to the federal Electronic Fund Transfer Act.

(Code 1981, 7-8-4, enacted by Ga. L. 1993, p. 917, 12.)

#### **7-8-5. Terminals to which chapter not applicable.**

The provisions of this chapter shall not apply to any remote service terminal which is located:

(1) Inside a building, unless it is a freestanding installation which exists for the sole purpose of providing an enclosure for the remote service terminal;

(2) Inside a building, except to the extent a transaction can be conducted from outside the building; or

(3) In any area, including any access area, building, enclosed space, or parking area, which is not controlled by the operator.

(Code 1981, 7-8-5, enacted by Ga. L. 1993, p. 917, 12.)

#### **7-8-6. Rules and regulations.**

The commissioner of the Department of Banking and Finance is empowered to enforce the provisions of this chapter and is empowered to make all necessary rules and regulations for the purpose of carrying out the purposes of this chapter.

(Code 1981, 7-8-6, enacted by Ga. L. 1993, p. 917, 12.)

#### **7-8-7. Inapplicability to persons or entities that are not a financial depository institution or operator.**

The provisions of this chapter shall not be construed to create any duty, responsibility, or obligation for any person or entity whose primary function is to provide for the exchange,

transfer, or dissemination of electronic fund transfer data and is not otherwise a financial depository institution or an operator, as defined in this chapter, and such person or entity shall have no liability of any nature to any customer or user of a remote service terminal and shall not be named in any action by a customer or user of a remote service terminal for any claim concerning any provision of this chapter or relating to the use or attempted use of a remote service terminal.

(Code 1981, 7-8-7, enacted by Ga. L. 1993, p. 917, 12.)

**7-8-8. Preemption.**

This chapter supersedes and preempts all rules, regulations, codes, statutes, or ordinances of all cities, counties, consolidated cities and counties, municipalities, and local agencies regarding customer safety at remote service terminals.

(Code 1981, 7-8-8, enacted by Ga. L. 1993, p. 917, 12.)